THE MADRAS ABKARI ACT, 1886.

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MADRAS ACT No. I OF 1886.[1]

[THE MADRAS ABKARI ACT, 1886.]

[*11th January 1886*; *2nd February 1886.*]

An Act to consolidate and amend the Abkari Law of the Presidency of Madras.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in the Presidency of Madras; It is enacted as follows :—

CHAPTER I.

PRELIMINARY AND DEFINITIONS.

Short title.

1. This Act may be cited as "The Madras Abkari Act, 1886."

Extent.

It extends to the whole of the Presidency of Madras;

Commencement.

and it shall come into force in any local area[2] within the said Presidency to such extent and from such date as the [3][State Government] by notification shall direct.

Repeal of enactments.

2. From the date on which this Act comes into force in any local area the enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule :

Provided that all licences granted under any of the said enactments in force on the date on which this Act comes into force in any local area shall continue in force for the periods for which the same have been respectively granted subject to the provisions of the enactments under which such licences were granted :

Provided further that the said repeal shall not affect any act done or any offence committed or any proceedings commenced or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 14th October, 1884, p. 13; for last report of the Select Committee, *see ibid*, Supplement, dated 9th December, 1885, p. 1; for Proceedings in Council, *see ibid*, dated 4th November, 1884, p. 3; *ibid*, dated 21st August, 1885, p. 11; *ibid*, dated 23rd October, 1885, p. 15; *ibid*, dated 18th November 1885, p. 23; *ibid*, dated 6th January, 1886, p. 1.

[2] All the provisions of the Act are in force in the local areas of the State in which the Madras Prohibition Act, 1937 (Madras Act X of 1937) has not come into force.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word 'State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter I.—Preliminary and Definitions.)

3. In this Act, unless there be something repugnant in the subject or context— Interpretation.

(1) "abkari-revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs. "Abkari-revenue."

(2) "Abkari-officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under sections 4 or 5 and includes the Board of Revenue when exercising any of its functions or powers in respect of abkari revenue. "Abkari-officer."

(3) "Commissioner" means the officer appointed by Government under section 4, clause (*a*). "Commissioner."

(4) "Collector" means a Collector of land revenue, or any person appointed under section 4, clause (*b*), to exercise all the powers or to perform all the duties of a Collector under this Act. "Collector."

(5) "Abkari-inspector" means an officer appointed under section 4, clause (*d*). "Abkari-inspector."

(6) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code. "Imprisonment."

(7) "toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree. "Toddy."

(8) "spirits" means any liquor containing alcohol and obtained by distillation [1] [whether it is denatured or not]. "Spirits."

[2] [*Explanation.*—"Denatured" means subjected to a process prescribed by the [3] [State Government] by notification for the purpose of rendering unfit for human consumption.]

(9) "liquor" includes spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol. "Liquor."

(10) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt. "Beer."

(11) "Country liquor" means liquor manufactured in [4] [India] on which duty of excise has not been levied or is not leviable under this Act at the full rates of duty chargeable on liquor imported into [4] [India] from foreign countries by sea. "Country liquor."

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[1] These words were inserted by section 3 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This explanation was substituted by section 2 of the Madras Abkari (Amendment) Act, 1915 (Madras Act I of 1915).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

"Foreign liquor."

(12) "foreign liquor" includes all liquor other than country liquor :

Provided that in any case in which doubt may arise the [1] [State Government] may declare by notification what for the purposes of this Act shall be deemed to be "country liquor" and what "foreign liquor."

"Intoxicating drug."

[2] [(13) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja* ;

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ;

(iii) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and

(iv) any other intoxicating or narcotic substance which the [4] [State Government] may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930.]

"Sale" or "selling."

(14) "sale" or "selling" includes any transfer otherwise than by way of gift.

"Import."

[3] [(15) "import" except in the phrase 'import into [4] [India,] means to bring into the [5] [State] otherwise than across a customs frontier as defined by the Central Government ;

"Export."

(16) "export" means to take out of the [5] [State] otherwise than across a customs frontier as defined by the Central Government ;]

"Transport."

(17) "transport" means to move from one place to another within the [6] [State].

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This definition was substituted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] Clauses (15), and (16) were substituted for the original clauses (15) and (16) by the Adaptation Order of 1937.

[4] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[5] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[6] The word "Province" was substituted for the words "Madras Presidency" by the Adaptation Order of 1937 and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

[1][(17-A) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed.] "Cultivation."

(18) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced [2][prepared or blended] and also re-distillation and every process for the rectification of liquor. "Manufacture."

[1][(18-A) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling.] "Bottle."

(19) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith. "Rectification."

(20) "place" includes also a house, building, shop, tent and vessel. "Place."

[3][(21) "police station" includes any place which the [4][State Government] may, by notification, declare to be a police station for the purposes of this Act.] "Police station."

[5][(22) "excise duty" and "countervailing duty" mean any such excise duty or countervailing duty, as the case may be, as is mentioned in [6][entry 51 of List II in the Seventh Schedule to the Constitution.] "Excise duty"; "Countervailing duty."

[7][(23) "excisable article" means— "Excisable article."

(*a*) any alcoholic liquor for human consumption; or

(*b*) any intoxicating drug.]

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[1] Clauses (17-A) and (18-A) were inserted by section 3 (iv) and 3 (vi) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "prepared or blended" were substituted for the words "or prepared" by section 3 (v), *ibid.*

[3] This sub-section was inserted by section 3 (vii) *ibid.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] Clauses (22) and (23) were inserted by the Adaptation Order of 1937.

[6] These words and figures were substituted for the words and figures "Item 40 of List II in the Seventh Schedule to the Government of India Act, 1935" by the Adaptation (Amendment) Order of 1950.

[7] This clause was substituted for the original clause (23) by *ibid.*

CHAPTER II.

ESTABLISHMENT AND CONTROL.

4. Notwithstanding anything contained in Regulations I and II of 1803[1], the [2][State Government] may, from time to time, by notification applicable to any district or local area in which this Act is in force,

The State Government may appoint an officer to control the administration of the Abkari department ;

(*a*) appoint an officer, who shall exercise all the powers of a Collector in respect of the abkari revenue and who shall, either as a member of the Board of Revenue or subject to the orders of the Board of Revenue or independently of the Board of Revenue, as the [2][State Government] may direct, have the control of the administration of the Abkari department or of the collection of the abkari revenue or of both ; and may direct that the control exercised by the Board of Revenue over Collectors in respect of the abkari revenue shall be exercised by such officer ;

may appoint special Collectors of Abkari-revenue ;

(*b*) appoint any person other than the Collector of land revenue to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the abkari-revenue, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the [2] [State Government] may from time to time direct ;

may withdraw abkari powers from Board of Revenue or Collectors of land revenue ;

(*c*) withdraw from the Board of Revenue or the Collector of land revenue any or all of their or his powers in respect of the abkari-revenue ;

ointers to offi caction take unde tions 40 to 53,

(*d*) appoint officers to perform the acts and duties mentioned in sections 40 to 53 inclusive of this Act ;

and subordinate officers ;

(*e*) appoint subordinate officers of such classes and with such designations, powers, and duties under this Act as the [2][State Government] may think fit ;

may appoint any Government officer or other person to act as above;

(*f*) order that all or any of the powers and duties assigned to any officers under clauses (*d*) and (*e*) of this section shall be exercised and performed by any Government officer or any person ;

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[1] These Regulations are the Madras Board of Revenue Regulation, 1803, and the Madras Collector's Regulation, 1803. *See* now the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter II.—Establishment and Control.
Chapter III.—Import, Export and Transport.)

and may delegate any of their powers to an Abkari-officer.

(*g*) delegate to any Abkari-officer all or any of [1][their] powers under this Act.

Rules for the guidance of Abkari-officers.

5. The [2][State Government] may from time to time make rules—

(1) prescribing the powers and duties under this Act to be exercised and performed by Abkari-officers of the several classes ; and

(2) regulating the delegation by the Board of Revenue, by the Commissioner, or by Collectors of any powers conferred by this Act or exercised in respect of abkari-revenue under any Act for the time being in force.

Power of State Government to authorize officers to admit persons arrested to bail.

[3][**5-A.** The [2][State Government] may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 34, either by name or in virtue of their office, throughout the Presidency or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed before an Abkari-officer having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.]

CHAPTER III.

IMPORT, EXPORT AND TRANSPORT.

Import of liquor or intoxicating drug.

6. No liquor or intoxicating drug shall be imported unless, being liable to the payment of duty under the Indian Tariff Act, 1882,[4] or any other law for the time being in force relating to the duties of customs on goods imported into [5][India], it has been dealt with according to such law:

Provided that subject to the orders of the [2][State Government] the Collector may, from time to time, permit the import of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, other than liquor or intoxicating drugs

[1] This word was substituted for the word "his" by the Adaptation Order of 1937.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was added by section 2 of the Madras Abkari (Amendment) Act, 1905 (Madras Act I of 1905).

[4] Repealed by Central Act VIII of 1894. *See* now the Indian Tariff Act, 1934.

[5] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Export of liquor or intoxicating drug.

7. No liquor or intoxicating drug shall be exported unless it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation :

Provided that subject to the orders of the [1][State Government] the Collector may, from time to time, permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Sections 6 and 7 not to affect certain laws and powers of Central Government.

8. Nothing in the last two preceding sections shall be deemed to affect any law for the time being in force which empowers the [2][Central Government] to prohibit or restrict the importation [3][into India] of liquor or of intoxicating drugs or which empowers the [2] [Central Government] to exempt any liquor or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

Prohibition of the transport of liquor.

9. The [1][State Government] may, from time to time, by notification, prohibit the transport of liquor or of intoxicating drugs, or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

Transport of liquor or intoxicating drug.

10. No liquor or intoxicating drug exceeding such quantity as the [1][State Government] may from time to time prescribe by notification, either generally [4][* * * *] or for any local area, shall be transported except under a permit issued under the provisions of the next following section :

Provided that in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937.

[3] The words "into British India" were inserted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930) and the word "India" was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[4] The words "for the whole Presidency" were omitted by the Adaptation Order of 1937.

(Chapter III.—Import, Export and Transport.
Chapter IV.—Manufacture, Possession and Sale.)

under the provisions of this Act such permits shall be dispensed with unless the [1][State Government] shall by notification otherwise direct with respect to any local area.

Permits for transport.

11. Permits for the transport of liquor or intoxicating drugs may be issued by the Collector or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs or special for specified occasions and particular consignments only.

Every permit shall specify—

(*a*) the name of the person authorized to transport liquor or intoxicating drugs ;

(*b*) the period for which the permit is to be in force ;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted ; and

(*d*) any other particulars which the [1][State Government] may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.

12. No liquor or intoxicating drug shall be manufactured ; no hemp plant (*Cannabis Sativa* [2][ ]) [3][ ] shall be cultivated ;

[4][no portion of the hemp [5]( ) plant from which any intoxicating drug can be manufactured shall be collected] ;

no toddy-producing tree shall be tapped ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "or *Indica*" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] The words "or coca plant (*Erythroxylon coca*)" which were inserted by section 4 (i) of the Madras Abkari (Amendment) Act, 1913, were omitted by *ibid.*

[4] This paragraph was inserted by section 4 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] The words "or coca" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

no toddy shall be drawn from any tree ;

no distillery or brewery shall be constructed or worked ;

[1][ ]

[2][no liquor shall be bottled for sale ; and]

no person shall use, keep, or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquor other than toddy or any intoxicating drug, except under the authority and subject to the terms and conditions of a licence granted by the Collector in that behalf, or under the provisions of section 21.

Provided that the [3][State Government] may by notification direct that in any local area it shall not be necessary to take out a licence for the manufacture of liquor for *bona fide* home consumption.

[4] [Licences granted under this section shall extend to and cover servants and other persons employed by the licensees and acting on their behalf.]

Possession of liquor or intoxicating drugs in excess of the quantity prescribed by Government prohibited.

13. No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the [3][State Government] may from time to time prescribe by notification, either generally [5][or specially with regard to " persons, places or time "] in respect of any specified description or kind of liquor or intoxicating drug, unless under a licence granted by the Collector in that behalf.

Provided that—

No fee to be charged for licence for possession for private consumption.

(1) No fee shall be charged for any such licence granted for the possession of such liquor or intoxicating drugs for *bona fide* private consumption or use.

Proviso as regards foreign liquor.

(2) Nothing in this section extends to any foreign liquor [6][other than denatur.d spirit] in the possession of any wa e houseman as such [7][ ].

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[1] The word " and " was omitted by section 4 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words were inserted by *ibid.*

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This paragraph was inserted by section 4 (iv) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] These words were substituted for the words " for the whole Presidency or for any local area " by section 5 (i), *ibid.*

[6] These words were inserted by section 5 (ii) *ibid.*

[7] The words " or of any person for his *bona fide* private consumption and not for sale " were omitted by section 2 of the Madras Abkari (Amendment) Act, 1947 (Madras Act XXII of 1947).

(*Chapter IV.—Manufacture, Possession and Sale.*)

Power to prohibit possession of liquor or drug.

[1][13-A. The [2](State Government) may by notification prohibit the possession by any person or class of persons either [3](generally) or in any local area of any liquor or intoxicating drug either absolutely or subject to such conditions as [4](they) may prescribe.]

Establishment of public distilleries and of warehouses.

14. The Commissioner may with the previous sanction of the [2][State Government]—

(*a*) establish a public distillery in which liquor or any kind of liquor may be manufactured under a licence granted under section 12 on such conditions as the [2][State Government] [5][deem] fit to impose ;

(*b*) discontinue any public distillery so established ;

(*c*) license at or in connexion with any licensed distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of of duty ;

(*d*) establish a public warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ; and

(*e*) discontinue any public warehouse so established.

Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor or intoxicating drugs subject to duty pending removal for local consumption or for export.

Sale of liquor or intoxicating drug without licence prohibited. Power to exempt toddy.

15. No liquor or intoxicating drug shall be sold without a licence from the Collector, provided that a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture or sell toddy under this Act, and a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to sell, manufacture or export intoxicating drugs [6][or to any officer whom the Commissioner may generally or specially authorize].

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[1] This section was inserted by section 6 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the words "throughout the whole Presidency" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] This word was substituted for the word "deems" by *ibid.*

[6] These words were inserted by section 7 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

(*Chapter IV.—Manufacture, Possession and Sale.*)

[1][Provided that a licence for sale in more than one district may be granted by the Commissioner.

Provided also that on such conditions as may be determined by the Commissioner a licence for sale granted under the excise law in force in another [2][State] may be deemed to be a licence granted under this Act.]

Provided further that the [3][State Government] may [4][by notification] declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn [5][under such conditions as the Commissioner may prescribe].

[6][Nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.]

[7][*Explanation.*—The supply of liquor by clubs to their members on payment of a price or of any fee or subscription is not a sale within the meaning of this section, but a fee according to a scale of fees to be fixed by the [8](State Government) shall be levied from such clubs by the Commissioner.]

Exclusive privileges of manufacture, etc., may be granted.

16. It shall be lawful for the [3][State Government] to grant to any person or persons on such conditions and for such period as may seem fit the exclusive or other privilege—

(1) of manufacturing or supplying by wholsale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail,

any country liquor or intoxicating drugs within any local area.

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[1] These provisos were substituted for the first proviso by section 7 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913.)

[2] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "in like manner" by section 7 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] These words were substituted for the words "in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery" by *ibid.*

[6] This was added by section 7 (iv), *ibid.*

[7] This explanation was added by section 2 of the Madras Abkari (Amendment) Act, 1929 (Madras Act XVIII of 1929).

[8] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincia" by the Adaptationl Order of 1950.

(*Chapter IV.—Manufacture Possession and Sale. Chapter V.—Duties.*)

No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the Collector.

In such cases, if the [1] [State Government] shall by notification so direct, the provisions of section 12 relating to toddy and toddy-producing trees shall not apply.

CHAPTER V.

DUTIES.

[2][**17.** [3] (An excise duty or countervailing duty) of such amount as the [1](State Government) may prescribe shall, if [4](they) so direct, be levied on all[5] (excisable articles)— Excise duty or countervailing duty on excisable articles.

(*a*) permitted to be imported under the proviso to section 6; or

(*b*) permitted to be exported under the proviso to section 7; or

(*c*) permitted under section 11 to be transported; or

(*d*) manufactured under any licence granted under section 12; or

(*e*) manufactured at any distillery established under section 14; or

(*f*) issued from a distillery or warehouse licensed or established under section 12 or section 14; or

(*g*) sold in any part of the said Presidency.

[6](. . . . . .)]

18. Such duty may be levied in one or more of the following ways— How duty may be imposed.

(*a*) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of [7][a distillery, brewery or warehouse licensed or established under section 12 of section 14] as the case may be; or in accordance with such scale of equivalents, calculated on the

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was substituted for the original by section 8 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] These words were substituted for the words "A duty" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] These words were substituted for the words "liquor and intoxicating drugs" by *ibid.*

[6] The proviso was omitted by *ibid.*

[7] These words were substituted for the words "the distillery or brewery" by section 9 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the [1][State Government] may prescribe ;

(*b*) in the case of intoxicating drugs by a duty to be rateably charged on the quantity produced or manufactured [2][or issued from a warehouse licensed or established under section 14] ;

(*c*) by payment of a sum in consideration of the grant of any exlcusive or other privilege—

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or,

(3) of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drug in any local area and for any specified period of time ;

(*d*) by fees on licences for manufacture or sale ;

(*e*) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the [1][State Government] may direct ; or

(*f*) by [3][import, export or] transport duties assessed in such manner as the [1][State Government] may direct.

[4][Provided that where there is a difference of duty as between two licence periods, such difference may be collected in respect of all stocks of country liquor or intoxicating drugs held by licensees at the close of the former period.]

Tax for tapping unlicensed trees, from whom leviable.

19. When duty is levied by way of tax on toddy trees under section 18, the [1][State Government] may by notification direct that the licence required under section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the licence being granted to such person so applying for it ; and when such notification has been issued such tax shall, in default of payment by the licensee, be recoverable from the owner or other person in possession who has so consented.

When, in like case, trees are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him from the occupier, if any, of the land, or if he trees do not belong to the occupier of the land, or if the land

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were added by section 9 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] These words were added by section 9 (iii), *ibid.*

[4] This proviso was inserted by section 9 (iv), *ibid.*

is not occupied, from the person, if any, who owns or is in possession of the trees unless he proves that the trees were tapped without his consent.

Duties may be farmed.

20. All or any of the duties leviable under this Act in any local area may, with the sanction of the [1][State Government], be farmed subject to such payment and on such other conditions as the [1][State Government] shall prescribe. Farmers of duties under this section shall take out licences as such from the Collector.

Toddy farmer may grant licence.

21. When the exclusive privilege of manufacturing toddy has been granted under section 16, the [1][State Government] may declare that the written permission of the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and effect as a licence from the Collector for that purpose under section 12.

Farmer may let or assign.

22. In the absence of any contract or condition to the contrary, any grantee of any exclusive or other privilege may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall exercise any rights as such unless and until the grantee or farmer, as the case may be, shall have applied to the Collector for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

Recovery by farmer of rents due to him.

23. It shall be lawful for any such grantee, farmer, lessee or assignee as aforesaid to proceed against any person holding under him for the recovery of any money due to him as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant:

Provided that nothing contained in this section shall affect the right of any such grantee, farmer, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

Saving for duties being levied at the commencement of the Constitution.

[2][23-A.] [3](1) Until provision to the contrary is made by Parliament by law, the State Government may continue to levy any duty to which this section applies, which it was lawfully levying immediately before the commencement of the Constitution under this Chapter as then in force.

(2) The duties to which this section applies are—

(*a*) any duty on any liquor or intoxicating drug other than an excisable article within the meaning of this Act; and

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was inserted by the Adaptation Order of 1937.

[3] Sub-sections (1) and (2) were substituted for the original sub-sections (1) and (2) by the Adaptation (Amendment) Order of 1950.

(*b*) any duty on an excisable article, or a medicinal or toilet preparation containing alcohol, produced outside India and imported into the State, whether the import is across any such customs frontier as is referred to in section 3 (15) or not.]

(3) Nothing in this section shall authorize the levy of any duty which, as between goods manufactured or produced in the [1][State] and similar goods not so manufactured or produced, discriminates in favour of the former or which, in the case of goods manufactured or produced outside the [1][State] discriminates between goods manufactured or produced in one locality and, similar goods manufactured or produced in another locality.]

CHAPTER VI.

LICENCES, ETC.

Form and conditions of licences, etc.

24. Every licence or permit granted under this Act shall be granted—

(*a*) on payment of such fees, if any ;

(*b*) for such period ;

(*c*) subject to such restrictions and on such conditions ; and

(*d*) shall be in such form and contain such particulars as the [2][State Government] may direct either generally, or in any particular instance in this behalf.

Counterpart agreement to be executed by licensees.

25. Every person taking out a licence under this Act may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the Collector may require.

Power to recall licences, etc.

26. The Collector may cancel or suspend any licence or permit granted under this Act.

(*a*) if any fee or duty payable by the holder thereof be not duly paid ; or

(*b*) in the event of any breach by the holder of such licence or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit ; or

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[1] This word was substituted for the word " Province " by the Adaptation Order of 1950.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adpation Order of 1950.

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to abkari-revenue, or of any cognizable and non-bailable offence [1][or of any offence [2](under the Dangerous Drugs Act, 1930, or) under the Merchandise Marks Act, 1889, or under sections 478 to 489 of the Indian Penal Code or is punished for any offence referred to in the eighth item of the schedule in section 167 of the Sea Customs Act, 1878]; or

Central Act II of 1930.
Central Act IV of 1889.
Central Act XLV of 1860.
Central Act VIII of 1878.

(*d*) where a licence or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person; or

(*e*) if the conditions of the licence or permit provide for such cancelment or suspension at will.

CHAPTER VII.

General Provisions.

Certain licensees required to keep with instruments for testing, etc.

[3][**27.** Every person who manufactures or sells any liquor or intoxicating drugs under a licence granted under this Act shall be bound—

(*a*) to supply himself with such measures, weights and instruments as the [4](State Government) may prescribe and to keep the same in good condition; and

(*b*) on the requisition of any Abkāri-officer duly empowered in that behalf at any time to measure, or weigh any liquor or intoxicating drug or to test any liquor in his possession in such manner as the said Abkāri-officer may require.]

Recovery of duties, etc.

28. All duties, taxes, fines and fees payable to [5][the State Government] direct under any of the foregoing provisions of this Act or of any licence or permit issued under it, and all amounts due to [5][the State Government] by any grantee of a village or by any farmer under this Act or by any person on account of any contract relating to the abkari-revenue may be recovered from the person primarily liable to pay

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[1] These words and figures were inserted by section 10 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words and figures were inserted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] This section was substituted by section 11 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

the same, or from his surety (if any), as if they were arrears of land revenue, and in case of default made by a grantee of a privilege or by a farmer, the Collector may take the grant or farm under management at the risk of the defaulter or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the Collector may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of land revenue.

Power to frame rules.

29. [1][(1) The [2](State Government) may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the [2](State Government) may make rules]—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who distil spirits from it, or who use it in the manufacture of bread ;

(*b*) for determining the number of licences of each description to be granted in any district or place ;

(*c*) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery ;

(*d*) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith ;

(*e*) prescribing the measures to be used for the sale of[3] [ ] liquor ;

(*f*) fixing for any local area the minimum price below which any country liquor shall not be sold ;

(*g*) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export ;

(*h*) for the inspection and supervision of stills, distilleries, private warehouses and breweries ;

(*i*) for the management of any public distillery or public warehouse established under section 14 ;

(*j*) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purposes of this Act ;

[1] This was substituted for the words " The Governor in Council may from time to time make rules " by section 12 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] The word " country " was omitted by section 12 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

(Chapter VII.—General Provisions.)

(*k*) prohibiting the use of any article which [1][the State Government] shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug ;

[2][(*l*) regulating the cultivation of the hemp [3][ ]; [4][plant], the collection of those portions of such [4][plant] from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom ;

[2] (*m*) (1) declaring the process by which spirit manufactured in or imported into the Presidency shall be denatured;

(2) for causing such spirit to be denatured through the agency or under the supervision of the Excise officers ;

(3) for ascertaining whether such spirit has been denatured ;

[2] (*n*) regulating the bottling of liquor for purposes of sale ;

(*o*) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith ;]

[2][(*p*)] for the grant of batta to witnesses, and of compensation for loss of time to persons released by any Abkāri-officer under section 40 (3) of this Act on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences under this Act and acquitted ;

[2] [(*q*)] regulating the power of Abkāri-officers to summon witnesses from a distance under section 44 ;

[2][(*r*)] for the disposal of articles confiscated and of the proceeds thereof.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] Clauses (*l*) to (*o*) were inserted after clause (*k*) and the original clauses (*l*), (*m*) and (*n*) were relettered as (*p*), (*q*) and (*r*) respectively by section 12 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] The words " and coca " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[4] This word was substituted for the word " plants " by Schedule II *ibid.*

CHAPTER VIII.

POWERS AND DUTIES OF OFFICERS, ETC.

Magistrate may issue a search warrant on application.

30. If any [1] [Collector or] Magistrate upon information [2] [obtained] and after such inquiry as he thinks necessary, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the [1] [Collector or] Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the [1] [Collector or] Magistrate.

Power to certain Abkari and Police officers to search houses, etc., without warrant.

31. Whenever the Commissioner, or a Collector, of any Abkāri or Police officer not below the rank of sub-inspector or a police station officer, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed and that the delay occasioned by obtaining a search warrant under the preceding section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he think proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an Abkāri-inspector as the case may be.

Power to enter and inspect places of manufacture and sale.

32. The Commissioner, or a Collector, or any Abkari-officer not below the rank of sub-inspector, or any police officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor or intoxicating drug or toddy; and may enter and inspect, at any time during which the same may be open, any place in which any liquor or intoxicating drug is kept for sale by any licensed person; and may examine, test, measure, or

[1] These words were inserted by section 13 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This word was substituted for the words "given by any Abkari or police officer or any other person" by *ibid.*

(Chapter VIII.—Powers and Duties of Officers, etc.)

weigh any materials, stills, utensils, implements, apparatus, liquor, or intoxicating drugs found in such place.

In case of resistance, entry may be made by force, etc.

33. If any officer empowered to make an entry under the provisions of the last two preceding sections cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

Offenders may be arrested, and contraband liquor and articles seized without warrant.

34. Any officer of the Abkāri, Salt, Police, Land-revenue or Customs Departments, and any other person duly empowered may arrest without warrant in any public thoroughfare or open place other than a dwelling house any person found committing an offence punishable under section 55 or section 57 or section 58 of this Act; and in any such thoroughfare or place may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which he may have reasonable cause to suspect any such liquor, drug or other such article to be, or to be concealed:

[1] [Provided that if the officer or person making the arrest under this section be not empowered under section 5-A to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if there be such an officer within a distance of five miles from the place where such arrest took place.

And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before an Abkāri-officer having jurisdiction to inquire into the case.]

Arrest of persons refusing to give name or giving false name.

35. Any person, who may be accused or reasonably suspected of committing an offence under this Act, and who on demand of any officer of the Abkāri, Salt, Police, Land-revenue or Customs Departments or of any other person duly empowered, refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Searches how to be made.

36. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure:

Central Act V of 1898.

[1] This proviso was added by section 3 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

[1][Provided that the persons called upon to attend and witness such searches shall include at least two persons neither of whom is an abkāri, police or village officer.]

Officers of certain departments bound to assist.

37. All officers of the departments of Police, Customs, Salt and Land-revenue shall be legally bound to assist any Abkāri-officer in carrying out the provisions of this Act.

Offences to be reported, etc.

38. Every officer employed [2][under the Government], other than an Abkāri-officer, shall be bound to give immediate information to an Abkāri-officer,

and every Abkāri-officer shall be bound to give immediate information either to his immediate official superior or to an Abkāri-inspector,

of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Landholders and others to give information.

39. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be any manufacture of liquor or intoxicating drugs not licensed under this Act shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Abkāri, Salt, Police, Customs or Land-revenue Departments immediately the same shall have come to their knowledge.

Persons arrested, how to be dealt with.

40. (1) When any person is arrested under the provisions of section 31 or section 34 or section 35 of this Act, the person arresting him shall, unless bail shall have been accepted under the provisions of section 31 [3][or of section 34], forthwith forward him to an Abkāri-inspector, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest police station, with a report of the circumstances under which such arrest was made.

Procedure by police station officer.

(2) On any such person being brought to a police station as aforesaid, the officer-in-charge thereof shall either admit him to bail to appear when summoned before the Abkāri-officer as aforesaid within the limits of whose

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[1] This proviso was added by section 3 of the Madras Abkāri (Amendment)' Act, 1929 (Madras Act XVIII of 1929).

[2] The words "under the Crown" were substituted for the words "by Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] These words and figures were inserted by section 4 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

jurisdiction the offence with which he is charged is suspected have been committed, or, in default of bail, shall forward him in custody to such officer.

Procedure by Abkāri-officer empowered to inquire.

(3) On any such person being brought in custody before such Abkāri-officer as aforesaid or appearing before him on bail [1][or when such Abkāri-officer as aforesaid has himself made the arrest] such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before the Magistrate having jurisdiction to try the case.

[2][Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such Abkāri-officer, the said officer shall, if sufficient bail be tendered for the appearance of the person arrested, admit the said person to bail to appear on any subsequent day before himself or any other Abkāri-officer having jurisdiction to inquire into the case.]

Persons arrested to be admitted to bail.

41. It shall be the duty of any officer arresting any person under the powers given by section 31 of this Act, and of any police station officer or Abkāri-officer before whom a person arrested is brought or appears under the provisions of section 40 to release such person on bail if sufficient bail be tendered for his appearance before an Abkāri-inspector or before a Magistrate as the case may be.

Bond of accused and sureties.

42. Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Abkāri-inspector before whom he was bailed to attend, or by the Magistrate, as the case may be :

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

The [3][State Government] shall from time to time determine the form of the bond to be used in any local area.

Procedure in case of default of person admitted to bail to appear before Abkāri-inspector.

43. When by reason of default of appearance of a person bailed to appear before an Abkāri-inspector such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond

[1] These words and figures were inserted by section 4 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

[2] This proviso was added by section 5 *ibid.*

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own court. Central Act V of 1898.

Abkāri-officers may summon witnesses.

44. Any Abkāri-officer holding an inquiry in the manner provided in section 40 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such Abkāri-officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the [1] [State Government] may from time to time by rule direct.

Terms of summons.

45. Every summons issued under the last preceding section shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

Examination of witnesses by Abkāri-inspectors.

46. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced into writing and shall be signed by such officer.

When attendance of witnesses to be dispensed with, and procedure in such cases.

47. It shall be lawful for an Abkāri-inspector, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry ; and such person shall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

Abkari-inspector may summon persons suspected of offences against Abkāri laws.

48. Any Abkāri-inspector may, after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 40 to 47 inclusive of the Act shall become applicable.

[2] [The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 44 to 47 before summoning the person suspected.]

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] This paragraph was added by section 14 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

(Chapter VIII.—Powers and Duties of Officers, etc.)

Law relating to criminal courts as to summoning of witnesses to apply.

49. The law for the time being in force as to summonses and compelling the attendance of persons summoned in criminal courts shall, so far as the same may be applicable, apply to any summons issued by an Abkāri-inspector and to any person summoned by him to appear under the provisions of this Act.

Report of Abkari-inspector gives jurisdiction to a competent Magistrate.

50. When an Abkāri-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

Central Act V of 1898.

Powers of Abkāri-inspector to cause attendance of witnesses before Magistrate.

51. When an Abkāri-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure on an officer in charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

Central Act V of 1898.

Procedure after arrest.

[1] [**52.** Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.]

Police to take charge of articles seized.

53. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of an Abkāri-inspector, all articles seized under this Act which may be delivered to them; and shall allow any Abkāri-officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take

[1] This section was substituted for the original section 52 by the Adaptation (Amendment) Order of 1950.

samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Closing of shop for the sake of public peace.

54. It shall be lawful for the Magistrate of the district or, in the town of Madras, for the Commissioner of Police by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any police officer who is present, to require such shop to be kept closed for such period as may be necessary.

CHAPTER IX.

PENALTIES.

For illegal import, etc.

55. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any licence or permit obtained under this Act,

(*a*) imports, exports, transports or possesses liquor or any intoxicating drug ; or

(*b*) manufactures liquor or any intoxicating drug ; or

(*c*) cultivates the hemp plant (*Cannabis sativa* [1][ ]) [2][[3]* * * or collects any portion of such [4](plant) from which an intoxicating drug can be manufactured ; or]

(*d*) taps any toddy-producing tree ; or

(*e*) draws toddy from any tree ; or

(*f*) constructs or works any distillery or brewery ; or

(*g*) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug ; or

[5] [(*h*) bottles any liquor for purposes of sale ; or]

[5] [(*i*)] sells liquor or any intoxicating drug

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[1] The words " or *Indica* " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[2] The words " the coco plant (*Erythroxylon coca*) ; or collects any portion of such plants from which an intoxicating drug can be manufactured ; or " were added by section 15 (1) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] The words " the coca plant (*Erythroxylon coca*) " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[4] This word was substituted for the word " plants " by *ibid.*

[5] This clause was inserted and the original clause (*h*) was relettered as (*i*) by section 15 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for rendering or attempting to render denatured spirit fit for human consumption.

[1] [**55-A.** Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in [2] [India] or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction before a Magistrate be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees or both. For the purpose of this section it shall be presumed unless and until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.]

For misconduct by licensee, etc.

56. Whoever, being the holder of a licence or permit granted under this Act, [3] [or being in the employ of such holder and acting on his behalf]—

(*a*) fails to produce such licence or permit on the demand of any Abkāri officer or of any other officer duly empowered to make such demand ; or

(*b*) [4] [wilfully does or omits to do anything] in breach of any of the conditions of his licence or permit not otherwise provided for in this Act ; or

(*c*) wilfully contravenes any rule made under section 29 of this Act ; or

(*d*) permits drunkenness, riot, or gaming in any place in which any liquor or intoxicating drug is sold or manufactured ; or

(*e*) permits persons of notoriously bad character to meet or remain in any such place,

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months, or with both.

For adulteration, etc., by licensed vendor or manufacturer.

57. Whoever, being the holder of a licence for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or

[1] This section was substituted for the original section by section 3 of the Madras Abkāri (Amendment) Act, 1915 (Madras Act I of 1915).

[2] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[3] These words were inserted by section 17 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were substituted for the words "does any act" by *ibid.*

apparent intoxicating quality or strength, or any article prohibited by any rule made under section 29, clause (*k*), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code ; or

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor ; or Central Act XLV of 1860.

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code ; or

(*d*) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such acts shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, Central Act XLV of 1860.

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both. Central Act XLV of 1860.

For possession of illicit liquor.

58. Whoever without lawful authority has in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

For vexatious search or arrest.

59. Any Abkāri-officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any closed place ;

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ;

or vexatiously and unnecessarily detains, searches, or arrests any person ;

or in any other way vexatiously exceeds his lawful powers, shall on conviction before a Magistrate be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months, or with both.

(*Chapter IX.—Penalties.*)

For vexatious delay.

60. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an Abkāri-inspector or to the officer in charge of the nearest police station as required by section 40 of this Act, any person arrested or any article seized under this Act, shall on conviction before a Magistrate be punished with fine which may extend to two hundred rupees.

For abetment of escape of persons arrested, etc.

61. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act, may be evaded or broken, or the abkari-revenue may be defrauded,

and any officer of any other department referred to in section 37 who abets the commission of any offence against this Act in any place,

shall, on conviction before a Magistrate for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[1] [**62.** *Omitted.*]

For offences not otherwise provided for.

63. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

Presumption as to commission of offence in certain cases.

64. In prosecutions under section 55 it shall be presumed until the contrary is proved, that the accused person has committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement, or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily ;

and the holder of a licence or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under section 55 or section 56 or section 57 or section 58 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

[1] This section was omitted by section 18 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

(*Chapter IX.—Penalties.*)

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

What things liable to confiscation.

65. In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect [1][or by means,] of which an offence has been committed shall be liable to confiscation.

Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured, had in possession or sold or toddy lawfully drawn or tapped along with, or in addition to, any liquor, intoxicating drug or toddy, liable to confiscation under this section, and

the receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement, or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, or other conveyances used in carrying the same.

shall likewise be liable to confiscation,

Confiscation how ordered.

66. When the offender is convicted or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the magistrate.

Whenever confiscation is authorized by this Act, the magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Commissioner, or by any other officer authorized by the [2][State Government] in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims :

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[1] These words were inserted by section 19 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(*Chapter IX.—Penalties. Chapter X.—Miscellaneous.*)

[1] [Provided further that if the thing in question is liable to speedy and natural decay or if the Commissioner or any other officer authorized by the [2] [State Government] in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

Power to compound offences.

67. Any Abkāri-officer specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clauses (*a*) and (*b*) of section 26 or who is reasonably suspected of having committed an offence under [3] [section 55, 56, 57, 58 or 63,] a sum of money not exceeding two hundred rupees in lieu of such cancelment or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

68. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.

Central Act V of 1898.

Central Act XLV of 1860.

CHAPTER X.

MISCELLANEOUS.

Publication of rules and notifications.

69. All rules made and notifications issued under this Act shall be made and issued by publication in the [2] [Official Gazette], provided that all such rules and notifications whereby the doing or the not doing of anything is made punishable, shall be published in three successive issues of the [4] [Official

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[1] This proviso was added by section 20 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words and figures were substituted for the words and figures "section 56 or section 63" by section 21 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

Gazette] and for at least two months in the Official Gazettes of the districts to which, or to parts of or to places in which, it may be determined that they shall apply. All such rules and notifications shall thereupon have the force of law and be read as part of this Act and may in like manner be varied, suspended or annulled.

The conferring of powers and making of appointments.

70. All notifications and orders conferring powers, imposing duties and making appointments under this Act, may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles; and all courts shall take judicial notice thereof.

Exception of medicated articles.

[1] [**71.** The [2] [State Government] may by notification either wholly or partially, subject to such conditions as [3] [they] may think fit to prescribe, exempt any liquor or intoxicating drug from all or any of the provisions of this Act, either [4] [generally] or in any specified area, or for any specified period or occasion or as regards any specified person or class of persons.]

Bar of actions.

72. No action shall lie against the [5] [Government], or against any Abkāri-officer, for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to abkari revenue;

and all prosecutions of any Abkāri-officer, and all actions which may be lawfully brought against the [5] [Government] or against any Abkāri-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

In such action if for damages, it shall be lawful for the court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered to refuse costs to the plaintiff and direct him to pay the costs of the defendant.

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[1] This section was substituted by section 22 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

[4] This word was substituted for the words "throughout the Presidency" by *ibid.*

[5] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(*Schedule*)

SCHEDULE.

(*See* SECTION 2.)

Enactment.	*Subject.*	*Extent of repeal.*
Act XIX of 1852.	For better securing the abkari revenue of the town and suburbs of Madras.	The whole so far as it has not already been repealed.
Act III of 1856.	An Act to amend Act XIX of 1852.	The whole.
[1]Act XVI of 1863.	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
[2][* * * *]		
[2][* * * *]		
[1] Act VIII of 1894.	The Indian Tariff Act, 1894.	Section 6.

MADRAS ACT No. IV OF 1886.[3]

[THE RAILWAY PROTECTION ACT, 1886.]

[*9th April 1886* ; *31st June 1886*.]

An Act to provide for the prevention of injury to Railways from the escape or overflow of water from irrigation-works situated upon the lands of zamindars or other landholders.

WHEREAS it is expedient to provide for the prevention of injury to lines of railway from the escape and overflow of water from rivers, tanks, channels or irrigation-works situated upon the lands of landholders; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Railway Protection Act, 1886. Short title.

[4] [It extends to the whole of the State of Madras.] Local extent.

2. In this Act—

the term "landholders" shall be taken to include all persons holding under a sanad-i-milkiyat-i-istimrar, all other "Landholders."

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[1] These items were inserted by section 23 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The entries relating to Madras Acts III of 1864 and V of 1879 have been omitted as these Acts have been repealed.

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 9th October 1885, p. 3 ; for Report of the Select Committee, *see ibid*, dated 23rd December 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st August 1885, p. 11 ; *ibid*, dated 23rd October 1885, p. 19 and *ibid*, dated 7th April 1886, p. 2.

The Act came into force on 1st September 1886—*see Fort St. George Gazette*, 1886, Part I, p. 692.

[4] These words were substituted for the words " It extends to the territories administered by the Governor in Council of *Fort St. George* " by section 3 of, and the Second Schedule to, the Repealing and Amending Act, 1950 (Central Act XXXV of 1950).